IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

C.W.P. No.556 of 2006.

Date of Order: 3rd October, 2007.

Shri Mast Ram ....Petitioner

-Versus-

Chairman-cum-Managing Director, State Bank of Patiala and another ….Respondents

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Coram:

The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice V.K.Ahuja, Judge.

Whether approved for reporting?

For the Petitioner: Mr.S.C.Rana with Mr.Vikas Rajput, Advocates.

For Respondents: Mr.G.C.Gupta, Senior Advocate with Mr.Mohinder Gautam, Advocate.

Deepak Gupta, J.(Oral)

By means of this writ petition the petitioner has prayed for the following relief:

> "a)Direct the respondents to grant the benefits of pension or Bank's contribution to provident fund as provided under the terms and conditions of V.R.S. Scheme in accordance with the provisions of pension fund scheme under State Bank of Patiala (Employees) Pension Regulations 1995 & Bank's contribution to Provident Fund Rules along with 12% interest w.e.f. 01.04.2001 till the date of payment.
>
> b)Direct the respondents to release arrears of Exgratia payment as per the terms and conditions of V.R.S. Scheme with 12% interest on the said amount till realization."

The petitioner was an employee with respondent No.1 i.e. State Bank of Patiala. He joined service on 22.5.1981. In the year

2001, respondent No.1 introduced a voluntary retirement scheme (VRI) applicable to employees who had put in 15 years of service or had completed 40 years of age as on 31st December, 2000, who were to be eligible for voluntary retirement. The petitioner applied for voluntary retirement. His request was acceded to and he was retired. He was granted the benefits under the VRS. However, no pension under the Pension Regulations was granted to him. He made various representations and ultimately filed a writ in this High Court. The petitioner prayed for the following amongst other reliefs:

> "That the respondents may kindly be directed to release the pensionary benefits to the petitioner with 18% interest from the date he retired under State Bank of Patiala voluntary retirement scheme that is 31.3.2001"

This petition was disposed of by this Court. The prayer of the petitioner was rejected. The operative portion of the judgment reads as follows:

> "In view of the above discussion, we hold that the petitioner is not entitled to pension under the State Bank of Patiala (Employees') Pension Regulations, 1995. Consequently the writ petition is dismissed with no orders as to costs."

It would be also be pertinent to mention that in the said judgment the Court also made the following observations:

> "It is also averred in the petition that the petitioner has not been even paid the amount of Contributory Provident Fund (wrongly termed as PPF in the petition) and that the omission to pay this amount also suggests that he is entitled to pension because an employee of the Bank is entitled either to pension or the Contributory Provident Fund."

It was also urged by the petitioner in that case that in case pension is not payable to him then the petitioner should be entitled to contributory provident fund. The Court disposed of this prayer with

a direction to the bank to look into the matter if the petitioner makes a representation within two months.

The petitioner made a representation which has been rejected vide letter dated 10.4.2006. The stand of the Bank is that the petitioner had opted for being governed by the Pension Regulations and the amount of contributory provident fund was transferred to the pension fund. The petitioner has challenged this order before this Court by filing the present petition.

The respondents in their reply have taken a preliminary submission that the petitioner has suppressed material facts from this Court. It has been averred that the judgment of this Court delivered in CWP No.1047 of 2003 was challenged by the petitioner by filing SLP which was rejected by the Apex Court. We had thereafter directed the petitioner to file a copy of the order of the Apex Court passed in the SLP which has now been filed.

We have heard Sh.S.C. Rana, learned counsel for the petitioner and Sh.G.C. Gupta, learned senior counsel for the respondents.

Shri S.C. Rana has vehemently argued that the petitioner is entitled to pension in terms of Clause 7(3) of the Voluntary Retirement Scheme and also in terms of Clause 14 of the Pension Regulations of the Bank. As far as this prayer is concerned we cannot even entertain the same. The earlier petition filed by the petitioner praying for the said relief has been clearly rejected and the judgment of this Court upheld by the Apex Court. The petitioner

cannot be permitted to again claim the same relief by filing a subsequent petition.

Coming to the prayer of the petitioner that the contributory provident fund may be released in his favour we find that the petitioner in 1993 had opted to become a member of the Banks Pension Scheme and had agreed that the amount payable under the Contributory Provident Fund along with interest be transferred from the contributory provident fund to the pension fund. Relevant portion of the option reads as follows:

> "I hereby declare that I have read and understood the Bank's Pension Scheme, 1993 and I hereby opt to become a member of the Bank's Pension Scheme as per the provisions of the said Scheme and irrevocably authorize the Bank/Trustees of the Contributory Provident Fund to transfer the entire contribution of the Bank along with entire interest accrued thereon to the credit of Pension Fund to be created for this purpose. I understand that I am required to contribute to the Provident Fund account at the rate determined by the Bank from time to time. I further understand that with effect from Ist November 1993 the bank shall not make any contribution to my Provident Fund Account."

In view of the clear-cut option of the petitioner he is not entitled to any refund of the contributory provident fund. This Court has already held that the petitioner is not entitled to the pension which judgment has been upheld by the Apex Court. Therefore, the petitioner is not entitled to any relief and the petition is accordingly rejected. No order as to costs.

(Deepak Gupta),
Judge

3rd October, 2007.
PV

(V.K. Ahuja),
Judge